

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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	:	
LAWRENCE F. GLASER, on Behalf of	:	
Himself and All Others Similarly Situated,	:	Civil Action No. 1:09-cv-08904-RJH
Plaintiff,	:	(Consolidated)
	:	
vs.	:	
	:	
THE9, LTD., XIAOWEI CHEN,	:	
GEORGE LAI, HANNAH LEE,	:	
TONY TSE and JUN ZHU,	:	
Defendants	:	
	x	

DECLARATION OF MATTHEW L. KUTCHER

I, Matthew L. Kutcher, an attorney admitted to practice before the United States District Court for the Southern District of New York, submit this declaration in support of Defendants' Reply Memorandum of Law in Support of its Motion to Dismiss the Consolidated Complaint, dated August 11, 2010, and declare as follows:

1. In support of Defendants' Motion to Dismiss the Consolidated Complaint, filed on May 28, 2010, I submitted the Declaration of Matthew L. Kutcher, which included Exhibit 1, entitled "Appendix – Forward Looking Statements Protected by Cautionary Language."

2. That Appendix contained an error. The entries corresponding to paragraphs 88 and 94 of the Consolidated Complaint, in the column entitled "Cautionary Language," inadvertently referred to The9 Limited Form 20-F *for 2007*. The "Cautionary Language" column for those paragraphs should refer to The9 Limited Form 20-F *for 2006*.

3. To correct the error, I attach hereto as Exhibit 1 a corrected version of Appendix
– Forward Looking Statements Protected by Cautionary Language.

Executed on August 11, 2010


Matthew L. Kutcher

EXHIBIT 1

Glaser v. The9, Ltd., Civil Action No. 1:09-cv-08904-RJH (S.D.N.Y.)**EXHIBIT 1 TO THE DECLARATION OF MATTHEW L. KUTCHER****APPENDIX TO THE9'S MOTION TO DISMISS [CORRECTED]****The9, Ltd. Forward-Looking Statements
Protected By Cautionary Language**

Complaint Paragraph	Purportedly Misleading Statement	Source	Cautionary Language
55	"All in all, we believe The9 is well positioned for sustainable growth in the rapidly evolving Chinese online games market."	Q1 2007 Earnings Call (May 22, 2007) Kutcher Decl. Ex. 25. ¹	"During the course of today's call certain projections or forward-looking statements may be made regarding The9's future financial performance or future events. We wish to caution you that such statements or predictions are based on our current information and expectations, and actual results may differ materially from those projected in the forward-looking statements. We would also like to refer you to documents that the Company filed with the U.S. Securities and Exchange Commission. Those documents contain additional information concerning factors that could cause actual results to differ materially from those contained in the management's projections or forward-looking statements." (May 22, 2007 Q1 2007 Earnings Call, at 1-2 (Kutcher Decl. Ex. 25).)
57	"I don't think the equity investment from EA will have any impact on our relationship . . . We are open to	Q1 2007 Earnings Call (May 22, 2007) Kutcher Decl. Ex. 25.	"During the course of today's call certain projections or forward-looking statements may be made regarding The9's future financial performance or future events. We wish to caution you

¹ "Kutcher Decl." refers to the "Declaration of Matthew L. Kutcher, dated May 28, 2010 (Docket No. 35)."

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	operate all kinds of games and bring them to China and make a very success story in China [sic]. So . . . I believe the partnership with EA and our relationship with Blizzard will be no conflict. Thank you."		that such statements or predictions are based on our current information and expectations, and actual results may differ materially from those projected in the forward-looking statements. We would also like to refer you to documents that the Company filed with the U.S. Securities and Exchange Commission. Those documents contain additional information concerning factors that could cause actual results to differ materially from those contained in the management's projections or forward-looking statements." (May 22, 2007 Q1 2007 Earnings Call, at 1-2 (Kutcher Decl. Ex. 25).)
71	"With the soon to-be-launched expansion pack [The Burning Crusade™], we believe World of Warcraft will resume its strong growth momentum. . . . and together with all the other high-caliber games to be launched in the future, we are confident that The9 will continuously capitalize on its unparalleled game portfolio so as to achieve long-term sustainable growth."	Aug. 29, 2007 Form 6-K and Press Release (Aug. 29, 2007) Kutcher Decl. Ex. 14.	"This announcement contains forward-looking statements. . . . Forward-looking statements involve inherent risks and uncertainties. A number of important factors could cause actual results to differ materially from those contained in any forward-looking statement. Potential risks and uncertainties include, but are not limited to, The9's limited operating history as an online game operator, . . . The9's ability to retain existing players and attract new players, license, develop or acquire additional online games that are appealing to users, anticipate and adapt to changing consumer preferences and respond to competitive market conditions, and other risks and uncertainties outlined in The9's filings with the U.S. Securities and Exchange Commission, including its annual reports on Form 20-F. " (Aug. 29, 2007 Form 6-K, at 11 (Kutcher Decl. Ex. 14) (emphasis added).)
77	"But we are very confident to eventually renew the contract of	Q3 2007 Earnings Call (Nov. 16, 2007)	"During the course of today's call, certain projections or forward-looking statements may be made regarding The9's future

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	<p>WOW with Blizzard. As there is a second expansion pack for WOW called The Wrath of the Lich King, that launch schedule is not yet announced by Blizzard. If that was to be launched before June '09, according to the contract that's still entitled to The9 . . . Both The9 and Blizzard hope that this expansion pack will be launched globally at the same time. Thank you."</p>	<p>Kutcher Decl. Ex. 26.</p>	<p>financial performance or future events. We wish to caution you that such statements or predictions are based on our current information and expectations, and actual results may differ materially from those projected in the forward-looking statements. We would also like to refer you to documents that the Company files with the U.S. Securities and Exchange Commission. Those documents contain additional information concerning factors that could cause actual results to differ materially from those contained in the Management's projections or forward-looking statements." (Nov. 16, 2007 Q3 2007 Earnings Call, at 1 (Kutcher Decl. Ex. 26).)</p>
88	<p>"So regarding your current question regarding the WoW renewal, what I can say is WoW has been in very strong growth during the past few years and also we are always in very good relationship with Blizzard. And we always have a very common unanimous opinion regarding the operation of WoW in China. So I was very confident that we believe that we can renew the contract in '09."</p>	<p>Q4 2007 Earnings Call (Feb. 22, 2008) Kutcher Decl. Ex. 27.</p>	<p>"During the course of today's call, certain projections or forward-looking statements may be made regarding The9's future financial performance or future events. We wish to caution you that such statements or predictions are based on current information and expectations and actual results may differ materially from those projected in the forward-looking statements.</p> <p>We would also like to refer you to documents that the Company filed with the U.S. Securities and Exchange Commission. Those documents contain additional information concerning factors that could cause actual results to differ materially from those contained in the management projections or forward-looking statements." (Feb. 22, 2008 Q4 2007 Earnings Call, at 2 (Kutcher Decl. Ex. 27).)</p> <p>The earnings call also referred investors to The9's SEC filings, which warn:</p>

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			<p>“In 2006, 99% of our total revenues were attributable to the operation of WoW in China We expect to continue to depend on WoW for most of our revenues in the near future.</p> <p>***</p> <p>If we are unable to maintain a satisfactory relationship with Blizzard or any other online game developer that has licensed a game to us, or if Blizzard or any of our other online game licensors either establishes similar or more favorable relationships with our competitors in violation of its contractual agreements with us or otherwise, our operating results and our business would be harmed, because our business depends significantly upon our exclusive licenses to operate WoW and other online games in China. While we have obtained from Blizzard a license for the Burning Crusade, an expansion pack for the WoW game, we cannot assure you that Blizzard or any of our other online game licensors will renew its license agreement with us, or grant us an exclusive license for any new online games that it may develop or make expansion packs for existing games available to us in the future. Any deterioration of our relationship with Blizzard or any of our other online game licensors could harm our future results of operations or the growth of our business.” (2006 Form 20-F at 8-9 (Kutcher Decl. Ex. 4) (emphasis added).)</p>

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94	<p>“In terms of our discussions with WoW – with Blizzard about WoW’s expansion, our current license will expire in June 2009 and we have been in very close discussions with Blizzard ... , about the extension of this license. This is all I can tell you. That the discussions are ongoing and very intense and that’s all I can tell you. We do not have a timetable but we hope that through these discussions that we can continue WoW’s operation in China and at conditions that are favorable and acceptable to all parties.”</p>	<p>Q1 2008 Earnings Call (May 20, 2008) Kutcher Decl. Ex. 28.</p>	<p>“During the course of today’s call certain projections or forward-looking statements may be made regarding The9’s future financial performance or future events. We wish to caution you that such future events or predictions are based on current information and expectations and actual results may differ materially from those projected in the forward-looking statements. We would also like to refer you to documents that the Company files with the U.S. Securities and Exchange Commission. Those documents contain additional information concerning factors that could cause actual results to differ materially from those contained in the management’s projections for forward-looking statements.” (May 20, 2008 Q1 2008 Earnings Call, at 1-2 (Kutcher Decl. Ex. 28).)</p> <p>The earnings call also referred investors to The9’s SEC filings, which warn:</p> <p>“In 2006, 99% of our total revenues were attributable to the operation of WoW in China We expect to continue to depend on WoW for most of our revenues in the near future.</p> <p>***</p> <p>If we are unable to maintain a satisfactory relationship with Blizzard or any other online game developer that has licensed a game to us, or if Blizzard or any of our other online game licensors either establishes similar or more favorable relationships with our competitors in violation of its contractual agreements with us or otherwise, our operating results and our business would be harmed, because our</p>

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			<p>business depends significantly upon our exclusive licenses to operate WoW and other online games in China. While we have obtained from Blizzard a license for the Burning Crusade, an expansion pack for the WoW game, we cannot assure you that Blizzard or any of our other online game licensors will renew its license agreement with us, or grant us an exclusive license for any new online games that it may develop or make expansion packs for existing games available to us in the future. Any deterioration of our relationship with Blizzard or any of our other online game licensors could harm our future results of operations or the growth of our business.” (2006 Form 20-F at 8-9 (Kutcher Decl. Ex. 4) (emphasis added).)</p>
102	<p>“As we have mentioned in – during our last call, we at The9 have been in very active discussions with Blizzard top management. And we most recently have completed one week of closed door discussion in Hong Kong and we’re continuing our negotiations and we hope that we will have results very soon. At this point, I cannot release any details, but let me just say that we are in very active discussion with top management from Blizzard . . . So overall, we’re very positive and optimistic about WoW’s continuing performance and growth in China.”</p>	<p>Q2 2008 Earnings Call (Aug. 8, 2008) Kutcher Decl. Ex. 29.</p>	<p>“During the course of today’s call, certain projections or forward-looking statements may be made regarding The9’s future financial performance or future events. We wish to caution you that such statements or predictions are based on current information and expectations and actual results may differ materially from those projected in the forward-looking statements. We would also like to refer you to documents that the Company files with the U.S. Securities and Exchange Commission. Those documents contain additional information concerning factors that could cause actual results to differ materially from those contained in the management’s projections or forward-looking statements.” (Aug. 8, 2008 Q2 2008 Earnings Call, at 2 (Kutcher Decl. Ex. 29).)</p> <p>The earnings call also referred investors to The9’s SEC filings, which warn:</p>

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			<p>“Since the launch of WoW in June 2005, we have derived substantially all of our revenues from WoW. If we are unable to renew this license or if we are only able to do so on terms substantially less favorable to us, our future results of operations will be materially adversely affected. We intend to vigorously pursue negotiations for the renewal of the WoW license, which negotiations are currently underway.</p> <p>***</p> <p>If we are unable to maintain a satisfactory relationship with Blizzard or any other online game developer that has licensed a game to us, or if Blizzard or any of our other online game licensors either establishes similar or more favorable relationships with our competitors in violation of its contractual arrangements with us or otherwise, our operating results and our business would be harmed, because our business depends significantly upon our exclusive licenses to operate WoW and other online games in China. While we have obtained from Blizzard the right to operate the Burning Crusade and the Wrath of the Lich King, two expansion packs for the WoW game, we cannot assure you that Blizzard or any of our other online game licensors will renew its license agreement with us, or grant us an exclusive license for any new online games that it may develop or make expansion packs for existing games available to us in the future. Any deterioration in our relationship with Blizzard or any of our other online game licensors could harm our future results of operations or the growth of our business.” (2007 Form 20-F at 6-7 (Kutcher Decl. Ex. 5) (emphasis added).)</p>

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108	<p>“The9 is currently in contract negotiations regarding World of Warcraft’s future operations in China. Recently, there have been rumors that surfaced regarding the contract negotiations. These rumors are completely unfounded. The9 encourages all parties to refrain from believing in such rumors. The9 is actively conducting the contract extension negotiations, and will announce to the market once a final decision is made.”²</p>	<p>Sept. 5, 2008 Press Release (Sept. 5, 2008) Kutcher Decl. Ex. 20.</p>	<p>“This announcement contains forward-looking statements. . . . Statements that are not historical facts, including statements about The9’s beliefs and expectations, are forward-looking statements. Forward-looking statements involve inherent risks and uncertainties. A number of important factors could cause actual results to differ materially from those contained in any forward-looking statement. Potential risks and uncertainties include, but are not limited to, The9’s limited operating history as an online game operator, . . . The9’s ability to retain existing players and attract new players, license, develop or acquire additional online games that are appealing to users, anticipate and adapt to changing consumer preferences and respond to competitive market conditions, and other risks and uncertainties outlined in The9’s filings with the U.S. Securities and Exchange Commission, including its annual reports on Form 20-F.” (Sept. 5, 2008 The9 Press Release at 1 (Kutcher Decl. Ex. 20) (emphasis added).)</p> <p>These other risks outlined in The9’s SEC filings included:</p> <p>“Since the launch of WoW in June 2005, we have derived substantially all of our revenues from WoW. If we are unable to renew this license or if we are only able to do so on terms substantially less favorable to us, our future results of operations will be materially adversely affected. We</p>

² Plaintiffs misquote the September 5, 2008 Press Release in two different places. *First*, the press release does not refer to “rumors that surfaced regarding the contract negotiations.” Rather, it refers to “rumors that surfaced regarding the contract **details.**” (emphasis added). *Second*, Plaintiffs omit a phrase in the third sentence of the press release. Specifically, it should read: “The9 encourages all parties to refrain from believing **and spreading out** such rumors.” (emphasis added).

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			<p>intend to vigorously pursue negotiations for the renewal of the WoW license, which negotiations are currently underway.</p> <p>***</p> <p>If we are unable to maintain a satisfactory relationship with Blizzard or any other online game developer that has licensed a game to us, or if Blizzard or any of our other online game licensors either establishes similar or more favorable relationships with our competitors in violation of its contractual arrangements with us or otherwise, our operating results and our business would be harmed, because our business depends significantly upon our exclusive licenses to operate WoW and other online games in China. While we have obtained from Blizzard the right to operate the Burning Crusade and the Wrath of the Lich King, two expansion packs for the WoW game, we cannot assure you that Blizzard or any of our other online game licensors will renew its license agreement with us, or grant us an exclusive license for any new online games that it may develop or make expansion packs for existing games available to us in the future. Any deterioration in our relationship with Blizzard or any of our other online game licensors could harm our future results of operations or the growth of our business.” (2007 Form 20-F at 6-7 (Kutcher Decl. Ex. 5) (emphasis added).)</p>
114	“Regarding the WoW renewal discussion, you are absolutely right, we have been conducting the talks	Q3 2008 Earnings Call (Nov. 18, 2008) Kutcher Decl. Ex. 30.	“During the course of today’s call, certain projections or forward-looking statements may be made regarding The9’s future financial performance and future events. We wish to caution you

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	<p>with Blizzard since actually May this year. At this point, we have to say we have no comment on the timing as well as the key issues under discussion on this – in this regard. The – when the decision has been made, the announcement will be made publicly and, at that time, everybody will know. At this point, we thank you for your patience and understanding for our remaining no comment on this issue.”</p>		<p>that such statements or predictions are based on current information and expectations, and actual result may be [sic] differ materially from those projected in the forward-looking statements. We would like to refer you to documents that the Company filed with the US Security [sic] and Exchange Commission. Those documents contain additional information concerning factors that could cause actual results to differ materially from those contained in the management projection or forward-looking statements.” (Nov. 18, 2008 Q3 2008 Earnings Call, at 1-2 (Kutcher Decl. Ex. 30).)</p> <p>The earnings call also referred investors to The9’s SEC filings, which warn:</p> <p>“Since the launch of WoW in June 2005, we have derived substantially all of our revenues from WoW. If we are unable to renew this license or if we are only able to do so on terms substantially less favorable to us, our future results of operations will be materially adversely affected. We intend to vigorously pursue negotiations for the renewal of the WoW license, which negotiations are currently underway.</p> <p>***</p> <p>If we are unable to maintain a satisfactory relationship with Blizzard or any other online game developer that has licensed a game to us, or if Blizzard or any of our other online game licensors either establishes similar or more favorable relationships with our competitors in violation of its contractual arrangements with us or otherwise, our operating results and our business would be harmed, because our</p>

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			<p>business depends significantly upon our exclusive licenses to operate WoW and other online games in China. While we have obtained from Blizzard the right to operate the Burning Crusade and the Wrath of the Lich King, two expansion packs for the WoW game, we cannot assure you that Blizzard or any of our other online game licensors will renew its license agreement with us, or grant us an exclusive license for any new online games that it may develop or make expansion packs for existing games available to us in the future. Any deterioration in our relationship with Blizzard or any of our other online game licensors could harm our future results of operations or the growth of our business.” (2007 Form 20-F at 6-7 (Kutcher Decl. Ex. 5) (emphasis added).)</p>